

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6208

BILL NUMBER: SB 141

NOTE PREPARED: Dec 1, 2013

BILL AMENDED:

SUBJECT: Applicability of federal law in Indiana.

FIRST AUTHOR: Sen. Delph

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It provides that any act, decree, injunction, law, opinion, order, rule, regulation, or statute of any branch of the federal government found by the General Assembly to be inconsistent with the power granted to the federal government in the Constitution of the United States is void in Indiana.
- B. It provides that a resident of Indiana has a cause of action to enjoin the enforcement or implementation or the attempted enforcement or implementation of a federal act, decree, injunction, law, opinion, order, rule, regulation, or statute declared void by the General Assembly.
- C. It provides that a plaintiff who prevails in such an action is entitled to reasonable attorney's fees and costs.
- D. It removes a statement that the common law of England and certain statutes of the British Parliament are governing Indiana law.
- E. It provides that a person who knowingly or intentionally implements or enforces, or attempts to implement or enforce, a federal law that is declared void by the General Assembly commits a Level 6 felony.

Effective Date: Upon passage.

Explanation of State Expenditures: *Attorney General* – If a party has a cause of action as a result of the findings of the General Assembly, cost for the Attorney General and any involved state agency to defend the state may increase.

A resident of Indiana who prevails in a court action challenging certain laws that are deemed inconsistent

with the power granted to the federal government can recover reasonable attorney's fees and costs of the filing the action. This could increase state expenditures.

Criminal Penalty – A Level 6 felony is punishable by a prison sentence that can range between 6 and 30 months. The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner.

Explanation of State Revenues: *Criminal Penalty* – If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Level 6 felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Criminal Penalty* – If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Criminal Penalty* – If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction; General Assembly; Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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